

MAY 02 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Hirofumi SHIMOMURA, et al.

Serial No.: 09/309,768

Group Art Unit: 2633

Filed: May 11, 1999

Examiner: Sedighian, Reza

For: OPTICAL SWITCH AND OPTICAL NETWORK

Honorable Commissioner of Patents
Alexandria, Virginia 22313-1450**PETITION TO WITHDRAW APPLICATION FROM ISSUE**
UNDER 37 C.F.R. §1.313(c)

Sir:

Subsequent to the Notice of Allowance of this Application issued on January 31, 2005, and the issue and advance copy fees of \$1,415 filed on April 20, 2005, Applicants hereby **PETITION TO WITHDRAW FROM ISSUE** this Application prior to the issue date.

Pursuant to MPEP Section 1308, Applicants respectfully file a Petition to Withdraw from Issue Under 37 C.F.R. §1.313(c)(2) to have this Application withdrawn from issue after payment of the issue fee and seek continuing prosecution through the filing of the attached Request for Continued Examination under 37 C.F.R. §1.114.

Applicants in good faith and for sufficient reasons contend that withdrawal is necessary as Applicants have determined, post Notice of Allowance, that pursuant to the duty to disclose information material to patentability through issuance, an Information Disclosure Statement certifies two (2) references which stem from a Chinese Office Action of March 18, 2005, should be filed in the above application.

Serial No. 09/309,768
Docket No. 134960/98
NEC.123

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In addition to this Petition and the attached Request for Continued Examination, Applicants have enclosed a Petition Fee of \$130 pursuant to 37 C.F.R. §1.17(h) and a Request for Continued Examination Fee of \$790 pursuant to 37 C.F.R. §1.17(e).

Should the Office of Petitions find the Petition to be other than in condition for approval, the Office of Petitions is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is authorized to charge any fees for such extension and to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,



Sean M. McGinn
Reg. No. 34,386

Date: 5/2/05
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